

No. 2476

United States
Circuit Court of Appeals

For the Ninth Circuit.

MERCHANTS & INSURERS' REPORTING
COMPANY, a Corporation, and PHOENIX
FIRE UNDERWRITERS, a Corporation,
Appellants,

vs.

F. A. JONES, Intervenor, and LYSANDER CAS-
SIDY, as Receiver of THE PHOENIX
FIRE UNDERWRITERS, a Corporation,
Appellees.

Transcript of Record.

Upon Appeal from the United States District Court
for the District of Arizona.

Filed

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F. D. Monckton,

FILMER BROS. CO. PRINT, 330 JACKSON ST., S. F., CAL.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Minutes of Court—November 12, 1913—Trial].

*In the United States District Court for the District
of Arizona.*

MINUTE ENTRY APPEARING UNDER DATE
OF NOVEMBER 12, 1913.

E.—14.

MERCHANTS & INSURERS' REPORTING
CO.,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

Comes now the complainant herein, by its counsel, Struckmeyer & Jencks, Esquires, and in support of its plea for the dissolution of the defendant corporation, introduces in evidence, H. A. Davis, who was duly sworn and examined, and filed nine exhibits, viz.: Exhibits "A," "B," "C," "D," "F," "G," "H," and "I," and thereupon the complainant rested its case; and the defendant herein, by Sloan, Seabury & Westervelt, Esquires, its counsel, joined in said prayer for dissolution and thereupon the defendant rested its case. Whereupon the Court takes the matter under advisement until a future day hereof.

[2*]

*Page-number appearing at foot of page of original certified Record.

**Plaintiff's Exhibit "A" [Resolution of Board of
Directors of Merchants & Insurers' Reporting
Co., Dated October 22, 1913].**

OFFICERS:

John Castera, President.
Marshall Stimson, Vice-President.
H. Y. Stanley, Sec. and Treas.

DIRECTORS:

John Castera.
Marshall Stimson.
H. Y. Stanley.
W. A. Johnstone.
F. W. Boynton.

Capital Stock \$500,000.

**MERCHANTS AND INSURERS REPORTING
CO.**

(Incorporated.)

359-360 I. W. Hellman Building,
411 South Main Street.

Removed to

913 International Bank Bldg.,
Los Angeles, California.

Phone Main 1786.

Moved that a proxy be issued to L. H. Civile for the purpose of voting the stock of the Merchants & Insurers Reporting Company in any special or regular meeting to be called for the purpose of dissolving the Bankers Fire Insurance Company and the Phoenix Fire Underwriters, the Merchants & Insurers Reporting Company holding over two-thirds of the shares of the stock of said companies.

Resolution was passed as follows:

RESOLVED—That we, the Board of Directors of the Merchants & Insurers Reporting Company, the owner of 996 shares of the Phoenix Fire Underwriters and 1996 shares of the Bankers Fire Insurance Company, hereby appoint L.

H. Civile its true and lawful attorney to represent it at any special meeting of said corporation held between this date and January 1st, 1914. And we authorize the President and Secretary to execute such proxy in behalf of this Company.

This is to certify that the above is a true and correct copy of a motion made at the Directors meeting of the Merchants & Insurers Reporting Company, held October 22nd, 1913.

(Seal) (Signed) H. Y. STANLEY,
Secretary.

[Endorsements]: Filed Nov. 12, 1913, at — M. George W. Lewis, Clerk. By Frank E. McCrary, Deputy. [3]

Plaintiff's Exhibit "B" [Resolution of Board of Directors of Merchants & Insurers' Reporting Co., Dated October 18, 1913].

OFFICERS:

John Castera, President.
Marshall Stimson, Vice-President.
H. Y. Stanley, Sec. and Treas.

DIRECTORS:

John Castera.
Marshall Stimson.
H. Y. Stanley.
W. A. Johnstone.
F. W. Boynton.

Capital Stock \$500,000.

**MERCHANTS AND INSURERS REPORTING
CO.**

(Incorporated.)

359-360 I. W. Hellman Building,
411 South Main Street.

Removed to

913 International Bank Bldg.,
Los Angeles, California.

Phone Main 1786.

At a special meeting of the Stockholders of the

4 *Merchants & Insurers' Reporting Co. et al.*

Merchants & Insurers Reporting Company, legally called at Symphony Hall, Los Angeles, California, October 18th, 1913, the following resolution was read by Mr. Castera:

BE IT RESOLVED—That the Board of Directors of the Merchants & Insurers Reporting Company be and are hereby instructed to take the proper and necessary steps in conjunction with the Bankers Fire Insurance Company and the Phoenix Fire Underwriters to dissolve the two Arizona Companies as soon as possible.

Motion was made and seconded that this resolution be adopted. Motion carried unanimously.

This is to certify that the above is a true and correct copy of a resolution passed at the Stockholders' meeting on October 18, 1913.

(Corporate Seal)

(Signed) H. Y. STANLEY,
Secretary.

Attested.

[Endorsements]: Filed Nov. 12, 1913, at — M. George W. Lewis, Clerk. By Frank E. McCrary, Deputy. [4]

**Plaintiff's Exhibit "C" [Proceedings Had at
Directors' Meeting of Merchants & Insurers'
Reporting Co., Dated October 22, 1913].**

OFFICERS:

John Castera, President.
Marshall Stimson, Vice-President.
H. Y. Stanley, Sec. and Treas.

DIRECTORS:

John Castera.
Marshall Stimson.
H. Y. Stanley.
W. A. Johnstone.
F. W. Boynton.

Capital Stock \$500,000.

**MERCHANTS AND INSURERS REPORTING
CO.**

(Incorporated.)

359-360 I. W. Hellman Building,
411 South Main Street.

Removed to
913 International Bank Bldg.,
Los Angeles, California.

Phone Main 1786.

Moved that the memorandum of agreement made on October 21st between the Arizona Companies and the Fireman's Fund of San Francisco be approved by the Directors of this Company. Also that the guarantee made by Mr. Castera in behalf of this Company be endorsed and confirmed. Carried.

This is to certify that the above is a true and correct copy of a motion made at the Directors meeting of the Merchants & Insurers Reporting Company, held October 22d, 1913.

(Corporate Seal)

(Signed) H. Y. STANLEY,

Secretary.

Attested.

[Endorsements]: Filed Nov. 12, 1913, at — M. George W. Lewis, Clerk. By Frank E. McCrary, Deputy. [5]

Plaintiff's Exhibit "D" [Resolution of Board of Directors of Merchants & Insurers' Reporting Co., Dated October 6, 1913].

OFFICERS:

John Castera, President.
Marshall Stimson, Vice-President.
H. Y. Stanley, Sec. and Treas.

DIRECTORS:

John Castera.
Marshall Stimson.
H. Y. Stanley.
W. A. Johnstone.
F. W. Boynton.

Capital Stock \$500,000.

**MERCHANTS AND INSURERS REPORTING
CO.**

(Incorporated.)

359-360 I. W. Hellman Building,
411 South Main Street.

Removed to
913 International Bank Bldg.,
Los Angeles, California.

Phone Main 1786.

Motion was made by Mr. Stimson, seconded by Mr. Boynton that the following resolution was offered and carried unanimously:

WHEREAS—In the adjustment of affairs of the Merchants & Insurers Reporting Company, in its relation to the Bankers Fire Insurance Company and the Phoenix Fire Underwriters, the stock of which is practically owned by the Merchants & Insurers Reporting Company, it has been necessary to transact considerable business between the three companies; and

WHEREAS—In the transaction of this business it has been necessary that certain sums of money be expended for various purposes, such as, return premiums, traveling expenses, attorney fees and salaries.

BE IT THEREFORE RESOLVED—That the Board of Directors of the Merchants & Insurers Reporting go on record with the statement that they have had full knowledge of all such expenditures and that such expenditures have been made with the approval of this Board; Furthermore, that this Board of Directors endorses and commends the action of Messrs. Davis, Civile and Feldman in the handling of the affairs of the Arizona Companies, namely, Bankers Fire Insurance Company and the Phoenix Fire Underwriters, and wishes to state further that the relation existing between the present Board of the Merchants & Insurers Reporting Company and the above named gentlemen are of the pleasantest and they possess to the fullest degree the confidence of this Board.

Signed by order of the Board, this 6th day of October, 1913.

(Signed) JOHN CASTERA,
President.

This is to certify that the above is a true and correct copy of a motion made at the Directors meeting

of the Merchants & Insurers Reporting Company,
held October 6th, 1913.

(Corporate Seal)

(Signed) H. Y. STANLEY,

Secretary.

Attested.

[Endorsements]: Filed Nov. 12, 1913, at — M.
George W. Lewis, Clerk. By Frank E. McCrary,
Deputy. [6]

**Plaintiff's Exhibit "F" [Minutes of Meeting of
Board of Directors of Bankers' Fire Insurance
Co. Held October 24, 1913].**

MINUTES OF A SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF THE BANK-
ERS FIRE INSURANCE COMPANY, A
CORPORATION OF THE STATE OF ARI-
ZONA, HELD PURSUANT TO A WAIVER
OF NOTICE, AT ROOM 406, FLEMING
BUILDING, PHOENIX, ARIZONA, ON OC-
TOBER 24th, 1913, AT 11:00 O'CLOCK A. M.

Present: Messrs. Civile, Davis and Feldman, be-
ing all of the Directors.

The President, Mr. Civile, was in the chair and
Secretary Davis kept the minutes.

The minutes of the last special meeting were read
and approved.

The Secretary read to the meeting the minutes of
the special meeting of the stockholders held this
morning.

On motion duly seconded, the following resolution
was unanimously adopted:

Resolved: That the appointment of P. H. Hayes as Agent of this corporation, upon whom all process may be served, dated December 28, 1909, and filed and recorded in the office of the Territorial Auditor on the 14th day of January, 1910, and now on file in the office of the Corporation Commission of the State of Arizona, be and the same is hereby revoked and in all things annulled, and further

Resolved: that any and all other appointments of agent or agents in his place, whether now of record or not, be and the same hereby are in all things revoked and annulled, and that the Secretary be authorized and directed to deliver certified copies of this resolution to the said Hayes and to R. C. Stanford, to appoint whom agent in the place of said Hayes an attempt is alleged to have been made by a former Board of Directors, and to the Corporation Commission.

On motion duly seconded, the following preamble and resolutions were unanimously adopted: [7]

Whereas the stockholders of this corporation have this day authorized and directed this Board of Directors, by a vote of a majority of the outstanding stock thereof voting at a special meeting thereof held this day to dissolve or secure the dissolution of this corporation in the most expeditious and economical manner possible and to take all necessary steps to that end, as more fully appears by the minutes of said meeting, therefore

Resolved: That this corporation be dissolved and cease to use or exercise any of its corporate franchises except so far as may be necessary to wind up

its affairs, discharge its obligations and distribute its assets, thereafter remaining, among its stockholders, and further

Resolved: That this Board approves, ratifies and confirms the contract of reinsurance with the "Fireman's Fund" of San Francisco, read to the meeting, and orders a copy thereof spread on the minutes; and further

Resolved: That the proper officers of the company be authorized and instructed to co-operate with the Merchants & Insurers Reporting Company in effecting and securing the dissolution of this company, and if necessary to institute legal proceedings to that end, or to appear in such proceedings as may be instituted by said Merchants & Insurers Reporting Company to that end, by counsel, and facilitate such dissolution as far as possible.

There being no further business, the meeting then adjourned.

(Signed) H. A. DAVIS,
Secretary. [8]

WAIVER OF NOTICE OF MEETINGS OF THE
BOARD OF DIRECTORS OF BANKERS
FIRE INSURANCE COMPANY.

We, the undersigned, being the Board of Directors of the above-named corporation, organized under the laws of the State of Arizona, do hereby waive notice of the time and place of the next special meeting of said Board of Directors, and of the business to be transacted at said meeting.

We designate the 24th day of October, 1913, at

— o'clock in the forenoon as the time, and Room 406 Fleming Building, Phoenix, Arizona, as the place of the said meeting of the said Board of Directors.

And we do hereby waive all requirements of the Laws of the State of Arizona, or of the charter, or By-laws of this Company, both as to notice and as to publication thereof of the time, place and objects of the meeting.

Dated: October 24th, 1913.

(Signed) H. A. DAVIS.

(Signed) C. S. FELDMAN.

(Signed) LEROY H. CIVILLE.

[Endorsements]: Filed Nov. 12, 1913, at — M. George W. Lewis, Clerk. By Frank E. McCrary, Deputy. [9]

Plaintiff's Exhibit "G" [Minutes of Meeting of Stockholders of Bankers' Fire Insurance Co., Held October 24, 1913].

MINUTES OF A SPECIAL MEETING OF THE STOCKHOLDERS OF THE BANKERS FIRE INSURANCE COMPANY, A CORPORATION OF THE STATE OF ARIZONA, HELD PURSUANT TO WAIVER OF NOTICE, AT ROOM 406, FLEMING BUILDING, PHOENIX, ARIZONA, ON THE 24th DAY OF OCTOBER, 1913, AT 10 O'CLOCK A. M.

Present: Merchants & Insurers Reporting Company by

12 *Merchants & Insurers' Reporting Co. et al.*

Leroy H. Civile, proxy, holding 1996 shares

Leroy H. Civile, in person 1 “

H. A. Davis, in person 1 “

C. S. Feldmann, in person 1 “

The meeting was called to order by the President, Mr. Civile, and Secretary Davis kept the minutes.

The President stated that the object of the meeting was to consider the advisability of dissolving the corporation and directing the directors and officers to take such steps as may be necessary to that end.

After discussion, the following preambles and resolutions were offered by Mr. Feldmann and seconded by Mr. Davis and unanimously carried:

Whereas, it is the desire of the Merchants & Insurers Reporting Company, which is the holder and owner of practically all of the stock of this corporation, that this corporation be dissolved and *case* to use and exercise its corporate franchises, and,

Whereas, at a meeting of the stockholders of said Merchants & Insurers Reporting Company, duly called and held in the city of Los Angeles on October 18, 1913, at which more than three-fourths of the outstanding stock was present in person or by proxy and voting, it was unanimously voted that the directors of said Merchants & Insurers Reporting Company should proceed at once to take the necessary steps in connection with this company to dissolve this company and wind up its business and affairs, and

Whereas, pursuant to said resolution, the officers of said Merchants & Insurers Reporting Company acting in conjunction with the President of this company have effected a [10] preliminary contract of

reinsurance with the Fireman's Fund of San Francisco whereby said Fireman's Fund agrees to reinsure all outstanding risks of this company, therefore,

Be it resolved: That this corporation be dissolved as speedily as possible, and further,

Resolved: That this corporation *case* to use or exercise its corporate franchises, and further

Resolved: That the directors and officers be and they hereby are authorized and directed to dissolve or secure the dissolution of this corporation in the most expeditious and economical manner possible, and further

Resolved: That the directors and officers are hereby instructed and authorized to take all necessary steps to carry into effect the said preliminary contract of reinsurance and to discharge all the existing indebtedness and obligations of this corporation and to distribute the assets thereof, which shall be thereafter remaining, in accordance with law and the directions of any court of competent jurisdiction in which the necessary proceedings for final dissolution shall or may be instituted.

There being no further business, the meeting then adjourned.

(Signed) H. A. DAVIS,

Secretary. [11]

WAIVER OF NOTICE OF MEETINGS OF THE
STOCKHOLDERS OF BANKERS FIRE
INSURANCE COMPANY.

We, the undersigned, being all the Stockholders of the above-named corporation, organized under the

14 *Merchants & Insurers' Reporting Co. et al.*

laws of the State of Arizona, do hereby waive notice of the time and place of the next special meeting of said Stockholders, and of the business to be transacted at said meeting.

We designate the 24th day of October, 1913, at — o'clock in the forenoon as the time, and Room 406 Fleming Building, Phoenix, Arizona, as the place of the said meeting of the said Stockholders.

And we do hereby waive all requirements of the Laws of the State of Arizona, or of the charter, or By-laws of this Company, both as to notice and as to publication thereof the *the* time, place and objects of the meeting.

Dated: October 24th, 1913.

(Signed) H. A. DAVIS.

(Signed) C. S. FELDMANN.

(Signed) LEROY H. CIVILLE.

(Signed) MERCHANTS & INSURERS

REPORTING COMPANY,

By LEROY H. CIVILLE,

Proxy.

[Endorsements]: Filed Nov. 12, 1913 at — M. George W. Lewis, Clerk. By Frank E. McCrary, Deputy. [12]

**Plaintiff's Exhibit "H" [Minutes of Meeting of
Stockholders of Phoenix Fire Underwriters,
Held October 24, 1913].**

MINUTES OF A SPECIAL MEETING OF THE
STOCKHOLDERS OF THE PHOENIX
FIRE UNDERWRITERS, A CORPORA-
TION OF THE STATE OF ARIZONA, HELD
PURSUANT TO WAIVER OF NOTICE,
AT ROOM 406, FLEMING BUILDING,
PHOENIX, ARIZONA, ON THE 24th DAY
OF OCTOBER, 1913, AT 10 O'CLOCK A. M.

Present: Merchants & Insurers Reporting Com-
pany by

Leroy H. Civile, proxy, holding 1996 shares.

Leroy H. Civile, in person, 1 “

H. A. Davis, in person, 1 “

C. S. Feldman, in person, 1 “

The meeting was called to order by the President,
Mr. Civile, and Secretary Davis kept the minutes.

The President stated that the object of the meeting
was to consider the advisability of dissolving the cor-
poration and directing the directors and officers to
take such steps as may be necessary to that end.

After discussion, the following preambles and reso-
lutions were offered by Mr. Feldmann and seconded
by Mr. Davis and unanimously carried:

Whereas, it is the desire of the Merchants & In-
surers Reporting Company, which is the holder and
owner of practically all of the stock of this corpora-
tion, that this corporation be dissolved and *case* to
use and exercise its corporate franchises, and,

16 *Merchants & Insurers' Reporting Co. et al.*

Whereas, at a meeting of the stockholders of said Merchants & Insurers Reporting Company, duly called and held in the city of Los Angeles on October 18, 1913, at which more than three-fourths of the outstanding stock was present in person or by proxy and voting, it was unanimously voted that the directors of said Merchants & Insurers Reporting Company should proceed at once to take the necessary steps in connection with this company to dissolve this company and wind up its business and affairs, and

Whereas, pursuant to said resolution, the officers of said Merchants & Insurers Reporting Company acting in conjunction with the President of this company have effected a [13] preliminary contract of reinsurance with the Fireman's Fund of San Francisco whereby said Fireman's Fund agrees to reinsure all outstanding risks of this company, therefore,

Be it resolved: That this corporation be dissolved as speedily as possible, and further,

Resolved: That this corporation cease to use or exercise its corporate franchises, and further

Resolved: That the directors and officers be and they hereby are authorized and directed to dissolve or secure the dissolution of this corporation in the most expeditious and economical manner possible, and further

Resolved: That the directors and officers are hereby instructed and authorized to take all necessary steps to carry into effect the said preliminary contract of reinsurance and to discharge all the existing indebtedness and obligations of this corporation and to

distribute the assets thereof, which shall be thereafter remaining, in accordance with law and the directions of any court of competent jurisdiction in which the necessary proceedings for final dissolution shall or may be instituted.

There being no further business, the meeting then adjourned.

(Signed) H. A. DAVIS,
Secretary. [14]

WAIVER OF NOTICE OF MEETINGS OF THE
STOCKHOLDERS OF PHOENIX FIRE
UNDERWRITERS.

We, the undersigned, being all the Stockholders of the above-named corporation, organized under the laws of the State of Arizona, do hereby waive notice of the time and place of the next special meeting of said Stockholders, and of the business to be transacted at said meeting.

We designate the 24th day of October, 1913, at — o'clock in the forenoon as the time, and Room 406 Fleming Building, Phoenix, Arizona, as the Place of the said meeting of the said Stockholders.

And we do hereby waive all requirements of the Laws of the State of Arizona, or of the charter, or By-laws of this Company, both as to notice and as to publication thereof the *the* time, place and objects of the meeting.

Dated: October 24th, 1913.

(Signed) H. A. DAVIS.

(Signed) C. S. FELDMANN.

(Signed) LEROY H. CIVILLE.

(Signed) MERCHANTS & INSURERS
REPORTING COMPANY,

By LEROY H. CIVILLE,

Proxy.

[Endorsements]: Filed Nov. 12, 1913, at — M.
George W. Lewis, Clerk. By Frank E. McCrary,
Deputy. [15]

**Plaintiff's Exhibit "I" [Minutes of Meeting of
Board of Directors of Phoenix Fire Under-
writers Held October 24, 1913].**

MINUTES OF A SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF THE PHOE-
NIX FIRE UNDERWRITERS, A COR-
PORATION OF THE STATE OF ARIZONA,
HELD PURSUANT TO A WAIVER OF
NOTICE, AT ROOM 406, FLEMING BUILD-
ING, PHOENIX, ARIZONA, ON OCTOBER
24th, 1913, AT 11:00 O'CLOCK A. M.

Present: Messrs. Civile, Davis and Feldman, be-
ing all of the Directors.

The President, Mr. Civile, was in the chair and
Secretary Davis kept the minutes.

The minutes of the last special meeting were read
and approved.

The Secretary read to the meeting the minutes of
the special meeting of the stockholders held this
morning.

On motion duly seconded, the following resolution was unanimously adopted:

Resolved: That the appointment of P. H. Hayes as Agent of this Corporation, upon whom all process may be served, dated December 28, 1909, and filed and recorded in the office of the Territorial Auditor on the 14th day of January, 1910, and now on file in the office of the Corporation Commission of the State of Arizona, be and the same is hereby revoked and in all things annulled, and further

Resolved: that any and all other appointments of agent or agents in his place, whether now of record or not, be and the same hereby are in all things revoked and annulled, and that the Secretary be authorized and directed to deliver certified copies of this resolution to the said Hayes and to R. C. Stanford, to appoint whom agent in the place of said Hayes an attempt is alleged to have been made by a former Board of Directors, and to the Corporation Commission.

On motion duly seconded, the following preamble and resolutions were unanimously adopted: [16]

Whereas the stockholders of this corporation have this day authorized and directed this Board of Directors, by a vote of a majority of the outstanding stock thereof voting at a special meeting thereof held this day to dissolve or secure the dissolution of this corporation in the most expeditious and economical manner possible and to take all necessary steps to that end, as more fully appears by the minutes of said meeting, therefore

Resolved: That this corporation be dissolved and

cease to use or exercise any of its corporate franchises except so far as may be necessary to wind up its affairs, discharge its obligations and distribute its assets, thereafter remaining, among its stockholders, and further

Resolved: That this Board approves, ratifies and confirms the contract of reinsurance with the "Fireman's Fund" of San Francisco, read to the meeting, and orders a copy thereof spread on the minutes; and further

Resolved: That the proper officers of the company be authorized and instructed to co-operate with the Merchants & Insurers Reporting Company in effecting and securing the dissolution of this company, and if necessary to institute legal proceedings to that end, or to appear in such proceedings as may be instituted by said Merchants & Insurers Reporting Company to that end, by counsel, and facilitate such dissolution as far as possible.

There being no further business, the meeting then adjourned.

(Signed) H. A. DAVIS,

Secretary. [17]

WAIVER OF NOTICE OF MEETINGS OF THE
BOARD OF DIRECTORS OF PHOENIX
FIRE UNDERWRITERS.

We, the undersigned, being the Board of Directors of the above-named corporation, organized under the laws of the State of Arizona, do hereby waive notice of the time and place of the next special meeting of said Board of Directors, and of the business to be transacted at said meeting.

We designate the 24th day of October, 1913, at — o'clock in the forenoon as the time, and Room 406, Fleming Building, Phoenix, Arizona, as the place of the said meeting of the said Board of Directors.

And we do hereby waive all requirements of the Laws of the State of Arizona, or of the charter, or By-laws of this Company, both as to notice and as to publication thereof of the time, place and objects of the meeting.

Dated: October 24th, 1913.

(Signed) H. A. DAVIS.

(Signed) C. S. FELDMAN.

(Signed) LEROY H. CIVILLE.

[Endorsements]: Filed Nov. 12, 1913 at — M. George W. Lewis, Clerk. By Frank E. McCrary, Deputy. [18]

**[Minutes of Court—November 25, 1913—Order
Dismissing Application for Authority to Con-
summate Contract for Reinsurance, etc.]**

*In the United States District Court for the District
of Arizona.*

MINUTE ENTRY APPEARING UNDER DATE
OF NOVEMBER 25, 1913.

E—14.

MERCHANTS & INSURERS' REPORTING CO.,
Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

The application of the complainant, dated November 21st, 1913, for authority to consummate the contract for reinsurance heretofore made and to distribute amongst the defendant's stockholders all of defendant's assets saving only such sum as the Court may deem to be sufficient to discharge all outstanding and unpaid debts of defendant, together with all costs and expenses of this suit including counsel fees, having been argued by counsel and submitted to the Court for its decision, it is ordered that the said application be and the same is hereby dismissed without prejudice. [19]

[Minutes of Court—December 13, 1913—Order
Setting Cause for Hearing].

*In the United States District Court for the District
of Arizona.*

MINUTE ENTRY APPEARING UNDER DATE
OF DECEMBER 13th, 1913.

No. E.—14.

MERCHANTS & INSURERS' REPORTING CO.,
Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

IT IS ORDERED that this case be set for hearing on December 20th, 1913, on the petition of F. A. Jones, to intervene. [20]

**[Minutes of Court—December 20, 1913—Order
Granting Leave to F. A. Jones, to Intervene,
etc.]**

*In the United States District Court for the District
of Arizona.*

MINUTE ENTRY APPEARING UNDER DATE
OF DECEMBER 20, 1913.

No. E.—14.

MERCHANTS & INSURERS' REPORTING CO.,
Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

IT IS ORDERED that leave be given to counsel
for the petitioner to intervene herein to file the
amended petition of F. A. Jones, praying for leave
to intervene in this cause. [21]

**[Minutes of Court—April 6, 1914—Order Setting
Cause for Hearing on April 8, 1914.]**

*In the United States District Court for the District
of Arizona.*

MINUTE ENTRY APPEARING UNDER DATE
OF APRIL 6th, 1914.

No. E.—14.

MERCHANTS & INSURERS' REPORTING CO.,
Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

IT IS ORDERED that this case be set for hearing on April 8, 1914, at two o'clock P. M. [22]

[**Minutes of Court—April 8, 1914—Order Granting
Leave to File Petition for Intervention, etc.]**

*In the United States District Court for the District
of Arizona.*

MINUTE ENTRY APPEARING UNDER DATE
OF APRIL 8th, 1914.

No. E.—14.

MERCHANTS & INSURERS' REPORTING CO.,
Plaintiff,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

On this day came the plaintiff, by Messrs. Struckmeyer and Jenckes, its attorneys, and the defendant, by Messrs. W. M. Seabury and James Westervelt, its attorneys, and the intervenors, by Reese Ling, Esquire; and the demurrer of the defendant to the petition for intervention was argued by counsel and submitted to the Court for its decision, and the said demurrer was overruled by the Court and the petitioners were permitted to file their petition for intervention herein;

AND IT IS ORDERED that the petitioners be permitted to file their petition for intervention herein;

AND IT IS FURTHER ORDERED that the intervenors be permitted to file affidavits within five

days of this date in support of their application for a Receiver herein and that the plaintiff and defendant herein be given five days thereafter within which to file their affidavits in opposition to the appointment of a receiver herein, and that the intervenors shall then have two days' additional time within which to file their reply affidavits herein, to all of which orders of the Court the plaintiff and defendant, by counsel, excepted and asked that their exception be noted upon the records and the same is accordingly done [23]

*In the United States District Court for the District
of Arizona.*

No. E.—14.

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendants.

Stipulation [Re Use of Certain Affidavits, etc.].

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the complainant and defendant and for the intervenors that the affidavit filed and served on behalf of intervenors in this court in Cause No. E.—15, to wit, Merchants & Insurers' Reporting Company, complainant, vs. Bankers' Fire Insurance Company, defendant, pursuant to the order of this Court entered April 8, 1914, and such affidavits as may be hereafter filed and served pursuant to said order in

said cause by any of the parties hereto, may be used in this cause as though filed and served herein; and further that either party hereto may use said affidavits upon any appeal from any order or decree of this court entered herein; and further that upon any appeal by any party hereto from any such order or decree entered herein, in case an appeal is taken from a similar order or decree entered in the aforesaid cause, Merchants & Insurers' Reporting Company vs. Bankers Fire Insurance Company, the record in said cause may be used upon the appeal in this cause, it being the intention that but one set of appeal papers need be prepared by any of the parties to such appeals and that the decision upon the appeal in said cause No. E.—15, to wit, Merchants & Insurers' Reporting Company [24] vs. Bankers' Fire Insurance Company, will be deemed and held to be the decision upon the appeal from the order or decree entered in this cause.

It is further agreed that the undersigned will execute any and all additional stipulations that may be necessary to carry this stipulation into effect.

(Signed) F. C. STRUCKMEYER, Jr.,

JOS. G. JENCKES,

Solicitors for Complainant.

RICHARD E. SLOAN,

W. M. SEABURY,

JAMES WESTERVELT,

Solicitors for Defendant.

GEORGE J. STONEMAN,

REESE M. LING,

Solicitors for Intervenors.

[Endorsements]: E.—14. In the United States District Court for the District of Arizona. Merchants & Insurers' Rep. Co. vs. Phoenix Fire Underwriters. Stipulation. File Apr. 20, 1914, Geo. W. Lewis, Clerk. By R. E. L. Webb, Dep. [25]

[Minutes of Court—April 25, 1914—Order Overruling Demurrer, etc.]

In the United States District Court for the District of Arizona.

MINUTE ENTRY APPEARING UNDER DATE
OF APRIL 25th, 1914.

No. E.—14.

MERCHANTS & INSURERS' REPORTING CO.,
Plaintiff,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

The demurrers heretofore filed herein are hereby overruled and the cause is submitted to the Court for its decision and judgment upon the pleadings, petitions and affidavits of the parties hereto and the intervenors herein. [26]

*In the United States District Court for the District
of Arizona.*

E.—14.

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

Order Appointing Receiver.

This cause coming on to be heard on the 1st day of July, 1914, the same being a day of the regular April term of this Court, upon the verified petition for intervention of F. A. Jones, as a stockholder of the above-named defendant, for himself and all other stockholders of the defendant, and the demurrer of the defendant to such petition and upon the hearing of the argument of the counsel representing the respective parties in support of said petition for intervention and said demurrer, the same being by the Court considered, and the demurrer being by the Court overruled, and upon the hearing of the motion of the defendant to dismiss said petition for intervention, and the answer of the defendant thereto, and after hearing evidence both oral and documentary in support of the said petition for intervention, and against the same, and the argument of counsel, and fully considering the same, it was by the Court ordered, adjudged and decreed that said petition for intervention should

be allowed and the prayer thereof should be granted, and it appearing that it is necessary and proper that a receiver be appointed for the said defendant, Phoenix Fire Underwriters, and that said Receiver be authorized, directed and empowered to do and perform all such acts as may be necessary and proper to be done for the purpose of caring for and conserving the assets [27] of defendant, wherever the same may be found, taking the same into his possession, and the winding up of the affairs of said defendant, and the returning of all said assets into this court, and that the defendant and each and all of its officers, agents and attorneys and employees be restrained until the further order of this Court from the doing and performing of any act or acts in the management, operation or control of the defendant as may in any manner defeat or impair the rights of the defendant or said petitioner in intervention, and from in any manner doing any further business except such as may be done by said receiver and pursuant to the authority herein conferred, and under the direction of the further orders of this Court.

IT IS NOW THEREFORE FURTHER ORDERED, ADJUDGED AND DECREED that Lysander Cassidy, a resident of Phoenix, in the State of Arizona be and he is hereby appointed as Receiver of said defendant, Phoenix Fire Underwriters, upon his qualifying and the giving of a bond in the sum of Three Thousand (\$3000.00) Dollars, with full power and authority to do any and all of the acts necessary in the premises for the

full and complete performance of this order and subject to the further orders and rules of this Court in the premises.

Done in Open Court this 1st day of July, 1914.

WM. H. SAWTELLE,
United States District Judge.

[Endorsements]: E.—14. In the United States District Court for the District of Arizona. Merchants & Insurers' Reporting Company, Complainant, vs. Phoenix Fire Underwriters, Defendant. Order Appointing Receiver. Filed Jul. 1, 1914 at —M. George W. Lewis, Clerk. By R. E. L. Webb, Deputy. [28]

*District Court of the United States, District of
Arizona.*

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

Notice of Appeal.

F. A. Jones filed his amended petition for leave to intervene in the above-entitled cause, on or about December 20, 1913, and having on or about said date moved this Court for leave to intervene in said cause, the said Court having on or about the 8th day of April, 1914, granted said relief, and entered an order herein as of said date overruling the de-

murrer to said amended petition and permitting said F. A. Jones to intervene herein and on or about the 25th day of April, 1914, the said Court having overruled the demurrer of the complainant and defendant to the petition in intervention of said F. A. Jones herein by order entered as of said date, and said Court having on the first day of July, 1914, appointed, on the motion of said F. A. Jones, a receiver herein by order entered as of said date.

NOW, THEREFORE, come the said Merchants & Insurers' Reporting Company and the Phoenix Fire Underwriters and hereby appeal from the said order of April 8, 1914, from said order of April 25, 1914, and from said order of July 1, 1914, so made and entered as aforesaid, and also from each and every part thereof, to the Circuit Court of Appeals in and for the 9th Circuit. [29]

Dated, Phoenix, Arizona, this 21 day of July, 1914.

F. C. STRUCKMEYER,
JOS. S. JENCKES,

Solicitors for Merchants & Insurers' Reporting
Company.

RICHARD E. SLOAN,
W. M. SEABURY,
JAMES WESTERVELT,

Solicitors for Phoenix Fire Underwriters. [30]

[Endorsements]: District Court of U. S. District of Arizona. Merchants & Insurers' Reporting Company vs. Phoenix Fire Underwriters. Notice of Appeal. Filed Jul. 10, 1914, at —M. George

W. Lewis, Clerk. By R. E. L. Webb, Deputy.
[31]

*District Court of the United States, District of
Arizona.*

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

Petition for Order Allowing Appeal.

To the Honorable WILLIAM H. SAWTELLE,
Judge of the District Court in and for the Dis-
trict of Arizona:

The above-named, Merchants & Insurers' Re-
porting Company and Phoenix Fire Underwriters,
respectively, complainant and defendant herein, feel-
ing themselves aggrieved by the order of this Honor-
able Court made and entered herein on April 8, 1914,
whereby the demurrer to the amended petition of
F. A. Jones for leave to intervene herein was over-
ruled and said F. A. Jones was allowed to intervene
here by the order made and entered herein on April
25, 1914, whereby the demurrer of complainant and
defendant to the petition in intervention herein of
said F. A. Jones was overruled and by the order made
and entered herein on July 1st, 1914, whereby Lysan-
der Cassidy, Esq., of Phoenix, Arizona, was ap-
pointed receiver of said Phoenix Fire Underwriters,
do hereby appeal from said orders of April 8, 1914,

April 20, 1914, and July 1, 1914, and each and every part of each of said orders to the Circuit Court of Appeals in and for the 9th Judicial Circuit for the reason specified in the assignment of errors, which is filed herein and your petitioner prays that its appeal be allowed and that such citation issue as is provided by law [32] and that a transcript of the records, proceedings and papers upon which said order of April 8, 1914, said order of April 25, 1914, and said order of July 1, 1914, were based, duly authenticated may be sent to the United States Circuit Court of Appeals in and for the 9th Judicial Circuit, sitting at the City of San Francisco, State of California, and your petitioner further prays that the proper order touching the security required by them to perfect their said appeal herein be made, and desiring to supersede the execution of said order of July 1, 1914, petitioners here tender bond in such amount as the court may require for such purpose and pray that with the allowance of the appeal a supersedeas be issued.

F. C. STRUCKMEYER,
JOS. S. JENCKES,

Solicitors for Merchants & Insurers' Reporting
Company.

RICHARD E. SLOAN,
W. M. SEABURY,
JAMES WESTERVELT,

Solicitors for Phoenix Fire Underwriters. [33]

[Endorsements]: District Court of U. S., District of Arizona. Merchants & Insurers' Reporting Company vs. Phoenix Fire Underwriters. Petition

for an Order Allowing Appeal. Filed Jul. 10, 1914,
at — M. George W. Lewis, Clerk. By R. E. L.
Webb, Deputy. [34]

*District Court of the United States, District of
Arizona.*

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

**Order Allowing Appeal and Fixing Amount of
Supersedeas Bond.**

It is hereby ordered that an appeal in the above-entitled cause to the Circuit Court of Appeals of the 9th Circuit be and is hereby allowed as prayed and that it operate as a supersedeas, and that the order of the District Court of the United States for the District of Arizona herein dated the first day of July, 1914, be, and it is hereby superseded pending said appeal and until the same is finally heard and determined upon the appellant's Merchants & Insurers' Reporting Company and Phoenix Fire Underwriters, filing a bond in the sum of Two Thousand Dollars, with sufficient surety, conditioned as required by law, and that if the said Merchants & Insurers' Reporting Company and Phoenix Fire Underwriters, do prosecute the same to effect, and if they fail to make their appeal good, shall pay and answer all damages, costs, charges and interest in the

said cause, then the said obligation to be void.

Done in open court this 22d day of July, 1914.

WM. H. SAWTELLE,

Judge of the District Court of the United States for
the District of Arizona. [35]

[Endorsements]: E.—14. District Court of U. S.,
District of Arizona, Merchants & Insurers' Re-
porting Company vs. Phoenix Fire Underwriters.
Order Allowing Appeal and Fixing Amount of
Supersedeas Bond. Filed Jul. 23, 1914, at — M.
George W. Lewis, Clerk. By R. E. L. Webb, Deputy:
[36]

*District Court of the United States, District of
Arizona.*

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

Supersedeas Bond.

KNOW ALL MEN BY THESE PRESENTS:
That we Merchants & Insurers' Reporting Company
and Phoenix Fire Underwriters, as principals, and
National Surety Company, a corporation, organized
and existing under and by virtue of the laws of the
State of New York, and authorized to do business
as a Surety Company in the State of Arizona, as
surety, acknowledge ourselves to be indebted jointly
and severally to F. A. Jones, Esq., and to Lysander

Cassidy, Esq., as Receiver of the Phoenix Fire Underwriters, for the benefit of said Jones and such other stockholders of Merchants & Insurers' Reporting Company as may be damaged by the pendency of the appeal hereinafter described, in the full sum of Two Thousand (\$2,000.00) Dollars, conditioned that,

WHEREAS, on or about the 8th day of April, 1914, in the District Court of the United States for the District of Arizona, in an issue pending in that court wherein Merchants & Insurers' Reporting Company was complainant and the Phoenix Fire Underwriters was defendant, an order was entered overruling the demurrer to the amended petition of said F. A. Jones for leave to intervene herein and granting to said F. A. Jones leave to intervene in said cause; and [37]

WHEREAS, on or about the 25th day of April, 1914, in said District Court of the United States for the District of Arizona, in said cause an order was entered overruling the demurrers of the complainant and defendant to the petition of intervention herein of said F. A. Jones; and

WHEREAS, on or about the first day of July, 1914, in said District Court of the United States for the District of Arizona, in said suit, and order was entered appointing Lysander Cassidy receiver of the said Phoenix Fire Underwriters and the said Merchants & Insurers' Reporting Company having obtained an appeal to the Circuit Court of Appeals in and for the 9th Judicial Circuit from the said order of April 8, 1914, said order of April 25th, 1914, and

said order of July 1st, 1914, which has been duly filed in the office of the clerk of the court to reverse the said orders and a citation directed to the said F. A. Jones, Esq., and the said Lysander Cassidy, Esq., as receiver of the Phoenix Fire Underwriters, citing and admonishing them to be and appear at a session of the United States Circuit Court of Appeals in and for the Ninth Judicial Circuit to be holden in the City of San Francisco within thirty days of the date of said citation:

Now, if the said Merchants & Insurers' Reporting Company and Phoenix Fire Underwriters shall prosecute their appeal to effect and if they shall fail to make good said appeal and to obtain the reversal of the several orders appealed from, shall answer and pay to the obligees in this bond all damages which they may sustain by reason of the suspension of said orders and stay of proceedings thereon and costs of this appeal, then the above obligation to be void, otherwise to remain in full force and virtue.

[38]

And said bond and obligation is upon the further express condition and agreement by the sureties thereto, that in case of a breach of the condition set forth herein, this Court may, upon notice to said sureties of not less than ten days, proceed summarily in said action or suit in which this bond is given to ascertain the amount which said sureties are bound to pay on account of such breach of said bond and undertaking, and render judgment against the said

sureties and each of them and award execution thereon.

MERCHANTS & INSURERS' REPORTING CO.,

By JOHN CASTERA,

President.

PHOENIX FIRE UNDERWRITERS,

By LEROY H. CIVILLE,

President.

NATIONAL SURETY COMPANY,

By CATESBY C. THOM.

Approved as to form and sufficiency of the surety this 25 day of July, 1914.

WM. H. SAWTELLE,

Judge of the District Court of the United States for
the District of Arizona. [39]

State of California,

County of Los Angeles,—ss.

On this 31 day of July, in the year one thousand nine hundred and fourteen, before me, William M. Curran, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Catesby C. Thom, known to me to be the duly authorized attorney in fact of National Surety Company, and the same person whose name is subscribed to the within instrument as the attorney in fact of said company, and the said Catesby C. Thom, acknowledged to me that he subscribed the name of National Surety Company thereto as principal, and his own name as attorney in fact.

IN WITNESS WHEREOF, I have hereunto set

my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal]

(Signed) WILLIAM M. CURRAN,
Notary Public in and for Los Angeles County, State
of California. [40]

[Endorsements]: District Court of U. S., District
of Arizona. Merchants & Insurers' Reporting Com-
pany vs. Phoenix Fire Underwriters. Supersedeas
Bond. Filed Aug. 26, 1914, at — M. George W.
Lewis, Clerk. By R. E. L. Webb, Deputy. [41]

*In the United States District Court for the District
of Arizona.*

No. E.—14 (Phoenix).

MERCHANTS & INSURERS' REPORTING
COMPANY,

Plaintiff,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

F. A. JONES,

Intervenor.

**Stipulation [Enlarging Time to File Record, etc.,
in Appellate Court to September 8, 1914].**

It is hereby agreed and stipulated that an order
nunc pro tunc be entered by the Court of August 22d,
1914, enlarging the time within which the original
certified Transcript of the Record in the above-
entitled cause may be filed, and within which the
cause may be docketed with the Clerk of the United

States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, to and including the 8th day of September, A. D. 1914.

GEORGE J. STONEMAN,

REESE M. LING,

Attorneys for Intervenor.

R. E. SLOAN,

JAMES WESTERVELT,

Attorneys for Defendant.

Dated at Phoenix, Arizona, this 28th day of August, A. D. 1914. [42]

[Endorsements]: No. E.—14 (Phoenix). In the United States District Court for the District of Arizona. Merchants & Insurers' Reporting Co., Plaintiff, vs. Phoenix Fire Underwriters, Defendant. F. A. Jones, Intervenor. Stipulation Agreeing to the Enlargement of Time Within Which to File Transcript of Record. Filed Aug. 28, 1914, at — M. George W. Lewis, Clerk. By R. E. L. Webb, Deputy. [43]

*In the United States District Court for the District
of Arizona.*

No. E.—14 (Phoenix).

MERCHANTS & INSURERS' REPORTING
COMPANY,

Plaintiff,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendant.

F. A. JONES,

Intervenor.

Order Under Rule 16, Section 1, Enlarging Time to September 8, 1914, to File Record Thereof and to Docket Case.

In accordance with a stipulation of counsel herein, filed August 28, 1914, and good cause therefor appearing,—

It is ordered that the time within which the original certified Transcript of the Record in the above-entitled cause may be filed, and within which the cause may be docketed with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, be, and hereby is enlarged to and including the 8th day of September, A. D. 1914, and that this order be now entered of record as of and for the 22d day of August, A. D. 1914.

(Signed) WM. H. SAWTELLE,
Judge of the United States District Court for the District of Arizona.

Dated at Tucson, Arizona, this 29th day of August, A. D. 1914. [44]

[Endorsements]: No. E.—14 (Phoenix). In the United States District Court for the District of Arizona. Merchants & Insurers' Reporting Co., Plaintiff, vs. Phoenix Fire Underwriters, Defendant. F. A. Jones, Intervenor. Order Enlarging Time Within Which to File Transcript of Record. Filed Aug. 29, 1914, at — M. George W. Lewis, Clerk. By R. E. L. Webb, Deputy. [45]

*In the United States District Court for the District
of Arizona.*

No. E.—14 (Phoenix).

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,

Defendants.

Praeceptum for Transcript of Record.

To George W. Lewis, Clerk of said Court:

Kindly prepare, certify and transmit to the Clerk of the Circuit Court of Appeals for the 9th Circuit at San Francisco, California, a typewritten transcript of the record upon appeal in the above-entitled cause containing the following portions of the record in the above-entitled cause, to wit:

Stipulation;

Notice of Appeal;

Petition for an Order Allowing Appeal;

Order Allowing Appeal;

Citation;

Supersedeas Bond;

Praeceptum.

R. E. SLOAN,

W. M. SEABURY,

JAMES WESTERVELT,

Attorneys for Defendant. [46]

[Endorsements]: No. E.—14 (Phoenix). In the United States District Court for the District of Arizona. Merchants & Insurers' Reporting Co., Plaintiff, vs. Phoenix Fire Underwriters, Defendant. F. A. Jones, Intervenor. Praecipe for Transcript of Record. Filed Aug. 28, 1914, at — M. George W. Lewis, Clerk. By R. E. L. Webb, Deputy. [47]

*In the United States District Court for the District
of Arizona.*

No. E.—14 (Phoenix).

MERCHANTS & INSURERS' REPORTING
CO.,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

F. A. JONES,

Intervenor.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

United States of America,
District of Arizona,—ss.

I, George W. Lewis, Clerk of the United States District Court, for the District of Arizona, do hereby certify that the forty-seven (47) typewritten pages, numbered from one (1) to forty-seven (47) inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other

proceedings in the above and foregoing entitled cause as are necessary to the hearing of said cause, and as is stipulated for by counsel of record herein, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal from the judgment of said United States District Court for the District of Arizona, to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the defendant for the preparation and certification of the typewritten transcript of record issued to the United States Circuit Court of [48] Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's fee (Sec. 828 R. S. U. S., as Amended by Sec. 6, Act of March 2, 1905), for making typewritten transcript of record, 105 folios at 20¢ per folio.....	\$21.00
Certificate of Clerk to typewritten transcript of record, 3 folios at 30¢ per folio.....	.90
Seal to said Certificate.....	.40
	<hr/>
	\$22.30

I hereby certify that the above cost for preparing and certifying record, amounting to \$22.30, has been paid to me by Messrs. Richard E. Sloan, Wm. M. Seabury, and James Westervelt, attorneys for the defendant.

I further certify that I hereto attach and here-

with transmit the original Citation, issued in this cause.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of said District Court at Phoenix, in said District, this 3d day of September, A. D. 1914.

[Seal]

GEORGE W. LEWIS,
Clerk.

By Robert E. L. Webb,
Deputy Clerk. [49]

*District Court of the United States, District of
Arizona.*

E—14.

MERCHANTS & INSURERS' REPORTING
COMPANY,

Complainant,

vs.

PHOENIX FIRE UNDERWRITERS,
Defendant.

Citation [on Appeal (Original)].

President of the United States of America, to F. A. Jones, Esq., and Lysander Cassidy, Esq., as Receiver for the Phoenix Fire Underwriters:

You are hereby notified that in a certain case in equity in the United States District Court in and for the District of Arizona, wherein Merchants & Insurers' Reporting Company is complainant, and Phoenix Fire Underwriters is defendant, and F. A. Jones is an intervenor, and wherein Lysander Cassidy, Esq., has been appointed by said court receiver

of said Phoenix Fire Underwriters by order dated July 1, 1914, an appeal has been duly allowed to Merchants & Insurers' Reporting Company and Phoenix Fire Underwriters to the Circuit Court of Appeals in and for the 9th Judicial Circuit. You and each of you are hereby cited and admonished to be and appear in the said court in the city of San Francisco, State of California, within thirty days from the date of this citation to show cause if any there be why the order of April 8, 1914, overruling the demurrer to the amended petition of said F. A. Jones for leave to intervene herein and permitting said F. A. Jones to intervene herein, the order of April 25, 1914, overruling the demurrer of complainant and defendant to the petition in intervention herein of said F. A. Jones, and [50] the order of July 1, 1914, appointing Lysander Cassidy, Esq., as receiver of the Bankers' Fire Insurance Company, each of which is appealed from herein, should not be corrected and speedy justice done to the parties in that behalf.

WITNESS the Honorable WILLIAM H. SAWTELLE, Judge of the United States District Court in and for the District of Arizona, this 22d day of July, 1914.

WM. H. SAWTELLE,
Judge of the United States District Court for the
District of Arizona.

Service accepted Aug. 8, 1914.

GEORGE J. STONEMAN,
REESE M. LING,

Sureties for F. A. Jones, Intervenor. [51]

[Endorsed]: District Court of U. S., District of Arizona. Merchants & Insurers' Reporting Company. vs. Phoenix Fire Underwriters. Citation. Filed Jul. 23, 1914, at — M. George W Lewis, Clerk. By R. E. L. Webb, Deputy.

[Endorsed]: No. 2476. United States Circuit Court of Appeals for the Ninth Circuit. Merchants & Insurers' Reporting Company, a Corporation, and Phoenix Fire Underwriters, a Corporation, Appellants, vs. F. A. Jones, Intervenor, and Lysander Cassidy, as Receiver of the Phoenix Fire Underwriters, a Corporation, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the District of Arizona.

Received and filed September 5, 1914.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

